

ORIGINAL

OFFICIAL FILE

ILLINOIS *man*
COMMERCE COMMISSION

ILLINOIS COMMERCE COMMISSION STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION - 51 A 10:45

Laura Braxton

-vs-

The Peoples Gas Light and Coke Company

Complaint as to billing/charges in
Chicago, Illinois.

: CHIEF CLERK'S OFFICE
: 06-0023
:
:
:
:

RESPONDENT'S RESPONSE TO OBJECTION

Now come the Respondent, The Peoples Gas Light and Coke Company ("Peoples Gas" or "Respondent"), by its attorney, Mark L. Goldstein, and files this Response to the Objection raised by the Complainant, Laura Braxton ("Complainant"), regarding the admissibility of Respondent's Late-filed Exhibit B, and states:

1. At the evidentiary hearing held November 9, 2006, Peoples Gas' counsel advised the ALJ that he would attempt to find meter reading records "for the periods of time that are in dispute in this matter." (Tr. 210) Counsel then requested that such meter reading records be marked as a late-filed exhibit and admitted in evidence. (Tr. 211)

2. In the colloquy that followed between the ALJ and counsel for Complainant and Respondent, counsel for Complainant would be given the opportunity to cross-examine a witness regarding the meter reading records, make data requests concerning those records, or require affidavits from Respondent. (Tr. 212)

3. On December 7, 2006, counsel for Peoples Gas by letter and enclosures mailed the meter reading records to the ALJ and Complainant's counsel and requested in the letter that the meter reading records, Late-filed Exhibit B be admitted in evidence. A copy of the letter is provided as Attachment A.

4. Counsel for Complainant at no time requested an Affidavit be provided regarding Respondent's Late-filed Exhibit B, or any data request regarding same, or having a witness support this Exhibit.

5. Complainant now asserts that the meter reading records do not comport to evidence. The meter reading records with the summary on page 1 of Late-filed Exhibit B is part of the books and records of Respondent, kept in its ordinary course of business and, as such, the Exhibit is admissible. The first page is a summary of the succeeding pages of the Exhibit.

6. Complainant has had ample opportunity, since December 7, 2006, to have discovery regarding this Exhibit and has failed to do so. Moreover, by letter dated February 22, 2007, Complainant advised the Chief Clerk of the Commission that she had

no objection to having the record marked "Heard and Taken." Thus, Complainant has, in effect, waived any right to discovery, cross-examination, or any other basis for objecting to the admissibility of Respondent's Late-filed Exhibit B.

Wherefore, Respondent, The Peoples Gas Light and Coke Company, respectfully requests that the objection raised by the Complainant, Laura Braxton, to Respondent's Late-filed Exhibit B be overruled and Respondent's Late-filed Exhibit B be admitted in evidence.

Respectfully submitted,
The Peoples Gas Light and Coke Company

By: Mark L. Goldstein
Mark L. Goldstein, Its Attorney

MARK L. GOLDSTEIN
108 Wilmot Road, Suite 330
Deerfield, IL 60015
(847)580-5480
(847)945-9512

CERTIFICATE OF SERVICE

I certify that on March 2, 2007, I mailed the foregoing Respondent's Response to Objection, by causing a copy of same to be served by U.S. Mail, first class postage prepaid, on the parties indicated below:

Ms. Elizabeth A. Rolando
Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield, IL 62701

Mr. William M. Shay
Howard and Howard
211 Fulton Street, Suite 600
Peoria, IL 61602

Ms. Eve Moran
Administrative Law Judge
Illinois Commerce Commission
160 N. LaSalle St., Ste. C-800
Chicago, IL 60601


Mark L. Goldstein